

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellant: David Wilson

Examiner: Scott Christensen

Serial No.: 09/731,019

Group Art Unit: 2444

Filed: December 7, 2000

Docket: 2043.060US1

For: User Evaluation of Content on Distributed Communication Network

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**APPEAL BRIEF UNDER 37 CFR § 41.37**

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The Appeal Brief is presented in support of the Notice of Appeal to the Board of Patent Appeals and Interferences, filed on November 30, 2009, from the Final Rejection of claims 1, 7, 9, 11-12, 14, and 16 of the above-identified application (hereinafter “the Application”), as set forth in the Final Office Action mailed on September 30, 2009 (hereinafter “the Office Action”).

The Commissioner of Patents and Trademarks is hereby authorized to charge Deposit Account No. 19-0743 in the amount of \$540.00, which represents the requisite fee set forth in 37 C.F.R. § 41.20(b)(2). The Appellant respectfully requests consideration and reversal of the Examiner’s rejections of the pending claims.

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

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## **1. REAL PARTY IN INTEREST**

The real party in interest of the above-captioned Application is the assignee, eBay, Inc. as evidenced by the Assignment from the Inventors recorded on December 31, 2001 at Reel 012368, Frames 0273-0279.

## **2. RELATED APPEALS AND INTERFERENCES**

There are no other Appeals, interferences, or judicial proceedings known to Appellant that will have a bearing on the Board's decision in the present Appeal.

### **3. STATUS OF THE CLAIMS**

In accordance with 37 CFR 41.37(c)(1)(iii) requiring a statement of the status of all claims, pending and canceled, Appellant submits the following:

The Application was filed on December 7, 2000, with claims 1-6. Claims 7-17 were added during subsequent prosecution.

Claims 2-6, 8, 10, 13, 15, and 17 have been canceled during subsequent prosecution without prejudice.

Claims 1, 7, 9, 11, 12, 14, and 16 are pending, stand twice rejected, and are the subject of the present Appeal.

#### **4. STATUS OF AMENDMENTS**

No amendments have been made subsequent to the Final Office Action mailed September 30, 2009.

## **5. SUMMARY OF CLAIMED SUBJECT MATTER**

This summary is presented in compliance with the requirements of Title 37 C.F.R. § 41.37(c)(1)(v), mandating a “concise explanation of the subject matter defined in each of the independent claims involved in the appeal ...” Nothing contained in this summary is intended to change the specific language of the claims described, nor is the language of this summary to be construed so as to limit the scope of the claims in any way.

Aspects of the present inventive subject matter include, but are not limited to, interactive user tools for a distributed communication network.

### **Independent Claim 1 (see, e.g., FIGS. 1 and 4; page 6, line 11 - page 8, line 19)**

Some of the embodiments claimed are related to a method for identifying as being helpful or otherwise valuable product/service reviews in a database coupled to a distributed communication network. The method comprises displaying product/service reviews from the database on a client display connected to the database over the network, providing (402, 403) an interactive element associated with each of the displayed reviews on the client display, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service. The method also includes receiving (404) at the database an indication that the user has clicked the interactive element, and incrementing (420) a count of a stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user, displaying (420) the count of the stored number of indications for the review on the client display together with the review, sending (422) an error to the user if the interactive element is clicked more than once by the user for the review, sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review and sequentially displaying the reviews in the sorted order, and recurrently tallying the number of indications and re-sorting the reviews for a subsequent display.

**Independent Claim 9 (see, e.g., FIG. 1; page 5, line 9 - page 6, line 10; page 8, line 8 –line 19)**

Some of the embodiments claimed are related to a system for identifying as being helpful or otherwise valuable product/service reviews in a database coupled to a distributed communication network. The system comprises a first computer coupled to the database over the network and a second computer coupled to the first computer. The first computer has a display to display product/service reviews (106) from the database, provide an interactive element (110) associated with each of the displayed reviews, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service, and display a count (112) of the stored number of indications for the review together with the review.

The second computer is to receive an indication that the user has clicked the interactive element, and is to increment a count of the stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user. The second computer is further to send an error to the first computer if the interactive element is clicked more than once by the user for the review, and the first computer is used to display the error to the user. The second computer is further to sort the reviews in ascending or descending order as a function of the number of indications tallied for each review, to sequentially display the reviews in the sorted order on the first computer, and to recurrently tally the number of indications and re-sort the reviews for subsequent display on the first computer.



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**Independent Claim 14 (see, e.g., FIG. 1; page 5, line 9 - page 6, line 10; page 8, line 8 –line 19)**

Some of the embodiments claimed are related to a machine-readable medium having stored thereon data representing sets of instructions for identifying as being useful or otherwise valuable product/service reviews in a database coupled to a distributed communication network. The sets of instructions, when executed by a machine, cause the machine to display product/service reviews (106) from the database on a client display connected to the database over the network, provide an interactive element (110) associated with each of the displayed reviews on the client display, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service, receive at the database an indication that the user has clicked the interactive element, increment a count of a stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user, and display the count (112) of the number of indications for the review on the client display together with the review. The sets of instructions, when executed by the machine, further cause the machine to sort the reviews in ascending or descending order as a function of the number of indications tallied for each review, sequentially display the reviews in the sorted order, and recurrently tally the number of indications and re-sort the reviews for a subsequent display.

This summary does not provide an exhaustive or exclusive view of the claimed subject matter, and the Appellant refers the reader to each of the appended claims and its legal equivalents for a complete statement of the claimed embodiments of the invention.

## **6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

- I. Claims 1, 7, 9, 11, 12, 14, and 16 were rejected under 35 U.S.C. § 103(a) as being obvious over a NOWTHIS.COM blog entry (WWW.NOWTHIS.COM, Nov. 24, 1999, hereinafter “NowThis”) in view of Nielsen (U.S. Pat. No. 6,789,075).
  
- II. Claims 1, 7, 9, 11, 12, 14, and 16 were rejected under 35 U.S.C. § 103(a) as being obvious over an Epinions web page (WWW.EPINIONS.COM, Oct. 12, 1999, hereinafter “Epinions”) in view of Salas (U.S. Pat. No. 6,230,185) in further view of Nielsen (U.S. Pat. No. 6,789,075).

## **7. ARGUMENT**

Appellant requests reversal of the rejection of these claims because of clear error, in that a proper *prima facie* case of obviousness has not been established.

### **1) The Applicable Law under 35 U.S.C. §103(a)**

The determination of obviousness requires that the Examiner meet his or her burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness.<sup>1</sup> As discussed by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc. et al.*<sup>2</sup>, the determination of obviousness under 35 U.S.C. § 103 is a legal conclusion based on factual evidence.<sup>3</sup> The legal conclusion, that a claim is obvious within § 103(a), depends on at least four underlying factual issues set forth in *Graham v. John Deere Co. of Kansas City*<sup>4</sup>: (1) the scope and content of the prior art; (2) differences between the prior art and the claims at issue; (3) the level of ordinary skill in the pertinent art; and (4) evaluation of any relevant secondary considerations.

In combining prior art references to construct a *prima facie* case, the Examiner must show some objective evidence in the prior art or some knowledge generally available to one of ordinary skill in the art that would lead an individual to combine the relevant portions of the references.<sup>5</sup> However, the level of skill is generally that of the person who follows the conventional wisdom in the art.<sup>6</sup> An invention can be obvious even though the reason to combine prior art teachings is not found in a specific reference.<sup>7</sup> But the requirement of some reason to combine references in a *prima facie* case of obviousness is emphasized in the Federal Circuit opinion, *In re Lee*,<sup>8</sup> which notes that the reason must be supported by some evidence in the record.

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<sup>1</sup> *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

<sup>2</sup> 550 U.S. 398 (2007).

<sup>3</sup> See *Princeton Biochemicals, Inc. v. Beckman Coulter, Inc.*, 411 F.3d 1332, 1336-37, 75 USPQ2d 1051 (Fed. Cir. 2005).

<sup>4</sup> 383 U.S. 1, 17 (1966).

<sup>5</sup> *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

<sup>6</sup> *Standard Oil Co. v. American Cyanamid Co.*, 774 F.2d 448, 454, 227 USPQ 293, 298 (Fed. Cir. 1985).

<sup>7</sup> See *In re Oetiker*, 977 F.2d 1443, 1448, 24 USPQ2d 1443, 1446 (Fed. Cir. 1992).

<sup>8</sup> *In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

The *KSR* Court merely rejected a rigid application of any “teaching, suggestion, motivation” test. It recognized that a more flexible conception of the test is entirely consistent with the *Graham* analysis.<sup>9</sup> The test for obviousness under § 103 must take into consideration the invention as a whole; that is, one must consider the particular problem solved by the combination of elements that define the invention.<sup>10</sup> References must be considered in their entirety, including parts that teach away from the claims.<sup>11</sup> The fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.<sup>12</sup>

Notably, the *KSR* Court affirmed that “rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”<sup>13</sup> The Examiner must, as one of the inquiries pertinent to any obviousness inquiry under 35 U.S.C. § 103, recognize and consider not only the similarities but also the critical differences between the claimed invention and the prior art.<sup>14</sup> Moreover, when a reference teaches away from a claimed invention, this fact is highly probative that the reference would not have rendered the claimed invention obvious to one of ordinary skill in the art.<sup>15</sup> If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.<sup>16</sup> The CCPA has also noted that “[t]he court must be ever alert not to read obviousness into an invention on the basis of the applicant’s own statements; that is, we must view the prior art without reading into that art appellant’s teachings.”<sup>17</sup> Thus, these principles have not been changed by the ruling in *KSR*.

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<sup>9</sup> *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 401, 127 S.Ct. 1727, 1731 (2007).

<sup>10</sup> *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985).

<sup>11</sup> See M.P.E.P. § 2141.02.

<sup>12</sup> See generally *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430, 1432-1433 (Fed. Cir. 1990); M.P.E.P. § 2143.01.

<sup>13</sup> See *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335-1336 (CA Fed. 2006) (cited with approval in *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-41 (2007)).

<sup>14</sup> See *In re Bond*, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990), *reh’g denied*, 1990 U.S. App. LEXIS 19971 (Fed. Cir. 1990).

<sup>15</sup> *Stranco Inc. v. Atlantes Chemical Systems, Inc.*, 1990 WL 10072072, 15 USPQ2d 1704, 1713 (Tex. 1990).

<sup>16</sup> See generally *In re Ratti*, 270 F.2d 810, 123 USPQ 349, 352 (CCPA 1959).

<sup>17</sup> *In re Spinnoble*, 405 F.2d 578, 585, 160 USPQ 237, 243 (CCPA 1969).

**2) Discussion of the Rejection of Claims 1, 7, 9, 11, 12, 14, and 16 under 35 U.S.C. § 103(a) over NowThis in view of Nielsen.**

*I. NowThis with Nielsen and the Office Action's reasoning fail to establish every element of claims 1, 7, 9, 11, 12, 14, and 16:*

Independent claim 1 recites in part,

*incrementing a count of a stored number of indications for the review ...  
(2) if the stored number of indications does not exceed one indication for  
the review from the user; and ... sending an error to the user if the  
interactive element is clicked more than once by the user for the review,*

which is similarly recited in independent claim 9, and incorporated into dependent claims 7, 11, and 12. Independent claim 14 recites in part,

*incrementing a count of a stored number of indications for the review ...  
(2) if the stored number of indications does not exceed one indication for  
the review from the user,*

which is incorporated into claim 16.

NowThis is merely a blog entry that includes the phrase “1 people found this review helpful. 0 did not. Was it helpful to you? [YES][NO]”<sup>18</sup> used with respect to a blog statement in which someone pointed out that “Amazon is getting into the ratings-rating business”. No further description or details of any actual system were provided. No further evidence was referred to in either the blog entry or the Office Action to show that there ever was a “ratings-rating” system, or whether Amazon entitled each user to only a single vote.

The Office Action concedes that NowThis does not expressly disclose the claim elements listed above, but it takes Official Notice that it would have been well known to only allow a particular user to vote once in a survey election, or any other functionality where the input of many users is desired, and to provide feedback as to whether the vote was cast or not<sup>19</sup>.

Appellant respectfully traverses the taking of Official Notice. The Office Action has not provided technical reasoning or scientific reasoning to support the conclusion that the elements

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<sup>18</sup> NowThis, p. 2.

<sup>19</sup> Office Action, p. 8.

were well known at the time of the invention of the present Application, but it merely provides self-serving and conclusory statements that it would have been obvious to provide such elements in a combination as presently claimed. Appellant respectfully submits that *sending an error to the user if the interactive element is clicked more than once by the user for the review* in an interactive voting environment was not common knowledge at the time of the invention, because feedback could be provided without sending an error to a user, such as by merely not incrementing a displayed vote count for example. Appellant respectfully objects to the assertion of Official Notice and requests that references be cited in support of the assertion in the next official communication. If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner is respectfully requested to provide an affidavit setting forth specific factual statements and explanation to support the finding, as required under 37 C.F.R. §1.104(d)(2).

Additionally, independent claim 1 recites in part,

*sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and recurrently tallying the number of indications and re-sorting the reviews for a subsequent display,*

which is similarly recited in independent claims 9 and 14.

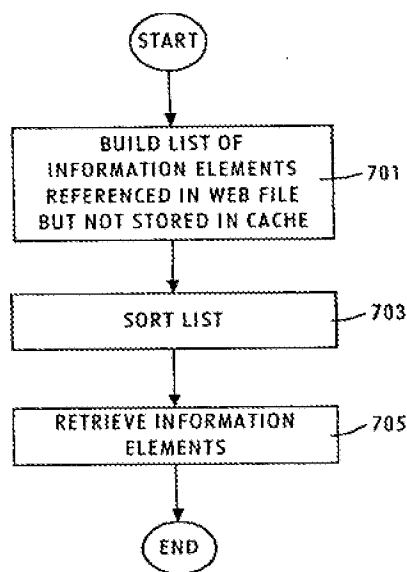
As asserted by Appellant above, NowThis is merely a blog entry. No further description or details of any actual system were provided, no further evidence was referred to in either the blog entry or the Office Action to show that there ever was a “ratings-rating” system, and no further evidence was referred to that shows whether more than one review was ever stored by Amazon.

The Office concedes that NowThis does not specifically disclose *sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order and resorting the reviews for a subsequent display*, but it states that Nielsen discloses ranking web information elements according to an attribute in each element and displaying the elements in a sorted order<sup>20</sup>.

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<sup>20</sup> *Ibid.*, p. 7.

Appellant respectfully disagrees with the Examiner's characterization of Nielsen. The cited portions of Nielsen relate to a method that retrieves a web file and sorts one or more web object references according to a Priority attribute associated with each web object reference<sup>21</sup>. After ranking the web object references by priority, the method then retrieves each web object in the order that its reference was ranked or by sequence in the web file. Thus, Nielsen sorts the web objects according to how they should be retrieved, and a sequence in the web file is made, which is different from *sorting . . . as a function of the number of indications*. The sorting referred to in Nielsen is shown in FIG. 7 of Nielsen, which is reproduced below.



Because NowThis does not provide any sorting (or even multiple reviews), and Nielsen sorts according to a priority of retrieval, NowThis and Nielsen, either separately or in the proposed combination, do not provide *sorting the reviews ... as a function of the number of indications tallied for each review ... and re-sorting the reviews for a subsequent display*, as similarly recited in independent claims 1, 7, and 14.

This is highlighted by the fact that the Priority attribute in Nielsen is static and is set by the *author* of the web file<sup>22</sup>. The result of the sorting is based on where the author placed the web reference in the display (the sequence) and the author-assigned Priority attribute. Thus, the

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<sup>21</sup> Nielsen, col. 1, lines 53-58.

<sup>22</sup> *Ibid.*, col. 6, lines 23-27.

Priority attribute of Nielsen is not useful for recurrently tallying the number of indications from *users* and re-sorting the reviews for a subsequent display. Therefore, one of ordinary skill in the art would not reasonably be led, upon reading NowThis and Nielsen, to use the sorting by Priority attribute in Nielsen to modify NowThis to obtain what is claimed in the present Application.

The Office Action states that these arguments are unpersuasive in part, because it alleges that Appellant is attacking references individually where the rejections are based on combinations of references<sup>23</sup>. However, it is the rejection in the Office Action that asserts modifying the NowThis blog entry with the sorting by Priority attribute of Nielsen. Appellant is merely pointing out that even if this modification could be made, doing so would not result in what is claimed by the Appellant.

The Office Action also states that these arguments are unpersuasive, because Nielsen shows an attribute (Priority attribute) that is stored with an element (a web object) to sort the elements according to this attribute, and that it would have been clear to one of ordinary skill in the art to use the disclosure of NowThis in which an attribute (a number of indications) that is stored with an element (review) may be used to sort the elements (reviews) according to the attribute (number of indications)<sup>24</sup>. However in Nielsen, an author inserts a Priority attribute in an embedded HTML document or object. Objects in remote servers are sorted into a retrieval list according to a priority attribute and sequence of appearance<sup>25</sup>. Thus, the order of the list will be determined by the author of the web file rather than as a function of the number of [user] indications.

Therefore, NowThis, Nielsen, and/or the Office Action's reasoning do not establish each and every element recited or incorporated into claims 1, 7, 9, 11, 12, 14, and 16, and therefore a proper *prima facie* case of obviousness does not exist. The rejection constitutes clear error and should be reversed.

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<sup>23</sup> Office Action, p. 2.

<sup>24</sup> *Ibid.*

<sup>25</sup> Nielsen, col. 7, lines 24-34.



**3) Discussion of the Rejection of Claims 1, 7, 9, 11, 12, 14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Epinions, Salas, and Nielsen.**

*I. The proposed combination of Epinions with Salas and Nielsen and the Office Action's reasoning fail to establish every element of claims 1, 7, 9, 11, 12, 14, and 16:*

Independent claim 1 recites in part,

*incrementing a count of a stored number of indications for the review ...  
(2) if the stored number of indications does not exceed one indication for  
the review from the user; and ... sending an error to the user if the  
interactive element is clicked more than once by the user for the review,*

which is similarly recited in independent claims 9 and 14, and incorporated into dependent claims 7, 11, 12, and 16.

The Office Action concedes that Epinions does not expressly disclose the elements above, but it looks to Salas as a secondary reference for the recited elements related to incrementing a count of a stored number of indications when the stored number of indications does not exceed one indication for the review from the user<sup>26</sup>. However, Salas does not disclose this feature. Salas refers to a mode of operation that *controls the number of votes that may be cast by any member*<sup>27</sup>. Salas does this by comparing the identity of the user to the list of users who have already responded<sup>28</sup>. The comparison performed in Salas is not the same as that recited in independent claim 1, where the determination is made *if the stored number of indications does not exceed one indication for the review from the user*. Thus, because Salas does not disclose any limitations regarding *incrementing a count* or determining *if the stored number of indications does not exceed one indication for the review from the user*, even if the proposed combination with Epinions were proper, the combination fails to show all of the recited elements of the independent claims.

Additionally, the Office Action takes Official Notice of *sending an error to the user if the interactive element is clicked more than once by the user for the review*<sup>29</sup>. Appellant respectfully

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<sup>26</sup> Office Action, p. 13.

<sup>27</sup> Salas, col. 16, lines 52-53.

<sup>28</sup> *Ibid.*, col. 16, lines 56-61.

<sup>29</sup> Office Action, p. 8.

objects to the assertion of Official Notice. The alleged technical or scientific reasoning provided in support of the Official Notice includes the following assertion:

*[P]roviding an error in situations where a user has voted more than once allows a user to be aware of the current status of the actuating of the interactive element. To ensure that user knows that the interactive element was properly actuated, some sort of feedback would be required, where a successful vote would indicate that the vote was successful, and the non-successful vote would indicate that the vote was not successful. Without this, a user would click on the link, and be unsure as to whether a vote was cast or not<sup>30</sup>.*

However, even assuming that some feedback would be “required,” other methods could provide the user with confirmation whether a vote was cast or not, such as by merely incrementing or not incrementing a displayed vote count for example. Thus, proper technical or scientific reasoning to support the conclusion of Official Notice has not been provided.

Appellant respectfully objects to the assertion of Official Notice and requests that references be cited in support of the assertion in the next official communication. If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner is respectfully requested to provide an affidavit setting forth specific factual statements and explanation to support the finding, as required under 37 C.F.R. §1.104(d)(2).

Further, independent claim 1 recites in part,

*sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and recurrently tallying the number of indications and re-sorting the reviews for a subsequent display,*

which is similarly recited in independent claims 9 and 14.

The Office Action concedes that Epinions does not specifically disclose the above-quoted limitation<sup>31</sup>, and it only uses Salas as a secondary reference in regard to allowing only one vote per user. But the Office Action asserts that Nielsen discloses ranking web information elements according to an attribute in each element and displaying the elements in a sorted order<sup>32</sup>.

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<sup>30</sup> *Ibid.*, p. 9.

<sup>31</sup> *Ibid.*, p. 12.

<sup>32</sup> *Ibid.*

However, Nielsen sorts the web objects according to how they should be retrieved, which is different from sorting them according to how they should be displayed. Thus, Epinions, Salas and Nielsen, either separately or in the proposed combination, do not provide *sorting the reviews ... as a function of the number of indications tallied for each review ... and re-sorting the reviews for a subsequent display*, as similarly recited in each of the independent claims.

Also, the Priority attribute in Nielsen is static and is set by the author of the web file<sup>33</sup>. Thus, the Priority attribute cannot be used for *recurrently tallying the number of indications and re-sorting the reviews for a subsequent display, as recited in claim 1, and as similarly recited in independent claims 9 and 14*. Therefore, one of ordinary skill in the art would not reasonably be led, upon reading Epinions, Salas and Nielsen, to use the sorting by Priority attribute in Nielsen to modify the disclosures of Epinions and Salas to obtain what is claimed in the present Application.

Further still, Appellant is unable to find *displaying the count of the stored number of indications for the review on the client display together with the review*, as recited in claim 1, and as similarly recited in independent claims 9 and 14. The Office Action asserts that this is found in Epinions on page 9<sup>34</sup>. However, this page shows the profile for a reviewer and a number of members that trust the reviewer. Displaying the number of members that trust the reviewer is different from *displaying the count of stored number of indications for the review*. Additionally, Epinions on page 10 shows that the review is not displayed with the count. Thus, Epinions, Salas and Nielsen do not establish *displaying the count of the stored number of indications for the review on the client display together with the review*.

Thus, Epinions with Salas and Nielsen, either individually or in combination or with the reasoning of the Office Action, do not establish all of the elements recited in claim 1, 9, and 14 and incorporated into dependent claims 7, 11, 12, and 16. Therefore a proper *prima facie* case of obviousness does not exist. The rejection constitutes clear error and should be reversed.

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<sup>33</sup> Nielsen, col. 6, lines 23-27.

<sup>34</sup> Office Action, p. 11.

**SUMMARY**

For the reasons explained above, the rejection of claims 1, 7, 9, 11, 12, 14, and 16 under § 103(a) as being unpatentable over NowThis and Nielsen, and the rejection of claims 1, 7, 9, 11, 12, 14, and 16 as being unpatentable over Epinions, Salas and Nielsen each constitutes clear error. It is respectfully submitted that these documents do not render the claims obvious.

Therefore, reversal of the rejection and allowance of claims 1, 7, 9, 11, 12, 14, and 16 are respectfully requested. If necessary please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 01 February 2010

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Appeal Brief- Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 1st day of February, 2010.

Chris Bartl  
Name

C. Bartl  
Signature

## **CLAIMS APPENDIX**

1. A method for identifying as being helpful or otherwise valuable product/service reviews in a database coupled to a distributed communication network, the method comprising:  
displaying product/service reviews from the database on a client display connected to the database over the network;  
providing an interactive element associated with each of the displayed reviews on the client display, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service;  
receiving at the database an indication that the user has clicked the interactive element, and incrementing a count of a stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user; and  
displaying the count of the stored number of indications for the review on the client display together with the review;  
sending an error to the user if the interactive element is clicked more than once by the user for the review;  
sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and  
recurrently tallying the number of indications and re-sorting the reviews for a subsequent display.
7. The method of claim 1, further comprising:  
compiling a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews; and  
displaying the list of reviewers on the client display.

9. A system for identifying as being helpful or otherwise valuable product/service reviews in a database coupled to a distributed communication network, the system comprising:

a first computer coupled to the database over the network, the first computer having a display to display product/service reviews from the database, provide an interactive element associated with each of the displayed reviews, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service, and display a count of the stored number of indications for the review together with the review; and

a second computer coupled to the first computer, the second computer to receive an indication that the user has clicked the interactive element, and to increment a count of the stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user and

wherein the second computer is further to send an error to the first computer if the interactive element is clicked more than once by the user for the review, wherein the first computer is utilized to display the error to the user; and

wherein the second computer is further to sort the reviews in ascending or descending order as a function of the number of indications tallied for each review, sequentially display the reviews in the sorted order on the first computer, and recurrently tally the number of indications and re-sort the reviews for subsequent display on the first computer.

11. The system of claim 9, wherein the second computer is further to compile a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews, and to provide the list of reviewers to the first computer.

12. The system of claim 11, wherein the first computer is further to display the list of reviewers.

14. A machine-readable medium having stored thereon data representing sets of instructions for identifying as being useful or otherwise valuable product/service reviews in a database coupled to a distributed communication network, the sets of instructions which, when executed by a machine, cause the machine to:

display product/service reviews from the database on a client display connected to the database over the network;

provide an interactive element associated with each of the displayed reviews on the client display, which when clicked by a user, indicates that the user has found a displayed review associated with a product/service helpful in determining whether or not to purchase or use the product/service;

receive at the database an indication that the user has clicked the interactive element, and incrementing a count of a stored number of indications for the review (1) in response to the indication and (2) if the stored number of indications does not exceed one indication for the review from the user;

display the count of the number of indications for the review on the client display together with the review; and

wherein the sets of instructions which, when executed by the machine, further cause the machine to sort the reviews in ascending or descending order as a function of the number of indications tallied for each review, sequentially display the reviews in the sorted order and recurrently tally the number of indications and re-sort the reviews for a subsequent display.

16. The machine-readable medium of claim 14, wherein the sets of instructions which, when executed by the machine, further cause the machine to:

compile a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews; and

display the list of reviewers on the client display.

**EXHIBIT APPENDIX**

None.



**RELATED PROCEEDINGS APPENDIX**

None.